

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALLEN RAY HORSLEY,

Petitioner,

v.

BRIAN CATES,

Respondent.

Case No. 1:23-cv-01248-EPG-HC

ORDER STAYING PROCEEDINGS AND
DIRECTING PETITIONER TO FILE
STATUS UPDATES

Petitioner Allen Ray Horsley, represented by counsel, is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On September 13, 2023, the Court granted Petitioner's motion to stay the proceedings pursuant to Kelly v. Small, 315 F.3d 1063 (9th Cir. 2002). (ECF No. 5.) On September 25, 2023, Petitioner filed an amended petition containing only exhausted claims, which satisfies the first requirement for a Kelly stay. (ECF No. 6.).

Accordingly, IT IS HEREBY ORDERED that:

1. The proceedings are STAYED pending exhaustion of state remedies;
2. Petitioner is DIRECTED to file a status report within thirty (30) days of the date of service of this order and every ninety (90) days thereafter; and
3. Within thirty (30) days following the final order of the state courts, Petitioner shall notify the Court that the unexhausted claims have been exhausted and request that the stay be lifted and the case proceed.

Petitioner is forewarned that failure to comply with this order will result in the Court vacating the stay.

IT IS SO ORDERED.

Dated: October 24, 2023

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE